

Clarke County

Planning Commission
Regular Meeting Minutes
February 5, 2016



A regular meeting of the Planning Commission of Clarke County, Virginia, was held at the Berryville/Clarke County Government Center, Berryville, Virginia, on Friday, February 5, 2016.

ATTENDANCE

George L. Ohrstrom, II, Chair; Robina Bouffault; Randy Buckley; Mary Daniel (arrived late); Scott Kreider; Doug Kruhm; Frank Lee; Gwendolyn Malone; Cliff Nelson and Jon Turkel.

ABSENT

Anne Caldwell

STAFF

Brandon Stidham, Planning Director; Ryan Fincham, Senior Planner/Zoning Administrator; Alison Teetor, Natural Resource Planner; and Debbie Bean, Recording Secretary.

CALLED TO ORDER

Chair Ohrstrom called the meeting to order at 9:00 a.m.

APPROVAL OF AGENDA

The Commission voted to approve the Agenda as presented.

Yes: Bouffault, Buckley, Kreider, Kruhm, Lee, Malone (moved), Nelson (seconded), Ohrstrom, Turkel

No: No one

Absent: Caldwell and Daniel

APPROVAL OF MINUTES

The Commission voted to approve the briefing meeting minutes of January 5, 2016.

Yes: Bouffault (moved), Buckley, Kreider, Kruhm, Lee, Malone (seconded), Nelson, Ohrstrom, Turkel

No: No one

Absent: Caldwell and Daniel

The Commission voted to approve the regular meeting minutes of January 8, 2016.

Yes: Bouffault, Buckley, Kreider, Kruhm, Lee, Malone (seconded), Nelson (moved), Ohrstrom, Turkel

No: No one

Absent: Caldwell and Daniel

Resolution of Appreciation – John Staelin

The Commission voted to approve the Resolution of Appreciation for John Staelin with minor corrections.

Yes: Bouffault, Buckley, Kreider, Kruhm, Lee, Malone (seconded), Nelson, Ohrstrom, Turkel (moved)

No: No one

Absent: Caldwell and Daniel

Mary Daniel entered the meeting at 9:07 a.m.

Public Hearing Items**TA-16-01, Public Outdoor Recreation Facility Lighting**

Proposed text amendment to amend §6-H-11, Outdoor Lighting Standards, of the Zoning Ordinance. The purpose of the amendment is to establish a new category for public outdoor recreation facility lighting including new lighting plan submission and design criteria requirements.

Mr. Stidham explained that this proposed amendment would establish separate design criteria and plan submission requirements for public outdoor recreational facility lighting to recognize the characteristics of this lighting category. He stated that the public outdoor recreation facility lighting category would apply only to permanent outdoor lighting for public athletic and recreational facilities that are owned and/or operated by a unit of Federal, State, or local government or by the Clarke County Public Schools system. After discussion with Staff and the Commission, Chair Ohrstrom opened the public hearing.

Dave Juday, representing the Clarke County Little League was present and spoke in favor of the proposed text amendment.

There being no further public comments, Chair Ohrstrom closed the public hearing and called for a motion.

The Commission voted to recommend adoption of this proposed text amendment to the Board of Supervisors.

Yes: Bouffault, Buckley, Kreider, Kruhm, Lee (moved), Malone, Nelson, Ohrstrom, Turkel (seconded)

No: No one

Absent: Caldwell

Abstain: Daniel

TA-16-02, Streambank Protection Regulations

Proposed text amendment to §3-E-1, Flood Plain District (FP), and §3-E-5, Stream Protection Overlay District, of the Zoning Ordinance. The purpose of the amendment is to establish to construction standards and regulations for the siting of boat landings, boat ramps, docks, decks, stairs, and similar structures along perennial streams including the Shenandoah River. The amendment also clarifies current ordinance language including referencing County Septic Ordinance regulations for the siting of portable privies and linking of complementary provisions in both sections.

Mr. Stidham said that Staff developed the proposed text amendment at the request of the Commission to clarify and strengthen regulations regarding recreational structures constructed by property owners along the Shenandoah River and the County's other perennial streams. He stated that the proposed amendment would establish construction standards and regulations for the siting of boat landings, boat ramps, docks, decks, stairs, and similar structures along perennial streams including the Shenandoah River. After discussion with Staff and the Commission, Chair Ohrstrom opened the public hearing.

There being no public comments, Chair Ohrstrom closed the public hearing and called for a motion.

The Commission voted to recommend adoption of this proposed text amendment to the Board of Supervisors.

Yes: Bouffault (moved), Buckley, Daniel, Kreider, Kruhm, Lee, Malone (seconded), Nelson, Ohrstrom, Turkel

No: No one

Absent: Caldwell

Minor/Major Subdivision

MS-16-01, William & Kathleen Weiss.

Request approval of a two lot Minor Subdivision for the property identified as Tax Map #16-4-21 located at the end of Bristow Lane in the Buckmarsh Election District, zoned Agricultural Open-Space Conservation (AOC).

Mr. Fincham explained that the applicant is requesting approval of a two lot Minor Subdivision located at the end of Bristow Lane. He said that a Deed of Dedication and Easement Agreement has been agreed to by lot owners served by Bristow Lane and signatures are being acquired by the applicant. He said that before the plat is signed final VDOT approval is needed and the completion and recordation of the Deed of Dedication and Easement Agreement. After discussion with Staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted to approve this request contingent upon final satisfaction of VDOT requirements and recordation of the Deed of Dedication and easement agreement.

Yes: Bouffault, Buckley, Daniel, Kreider (moved), Kruhm (seconded), Lee, Malone, Nelson, Ohrstrom, Turkel

No: No one

Absent: Caldwell

Boundary Line Adjustment

BLA-16-01, Bryan & Cynthia Casey.

Request approval of a Boundary Line Adjustment for the properties identified as Tax Map #23-A-20 and 23-A-19, located off Springsbury Road in the Buckmarsh Election District zoned Agricultural Open-Space Conservation (AOC).

Mr. Fincham stated that the Planning Commission normally does not review boundary line adjustments. He said that in the Clarke County Subdivision Ordinance regarding Boundary Line Adjustments in Section 10-D, it states that boundary line adjustments where a residential lot (less than 20 acres in size) is increased in size and an agricultural lot (20 acres in size or larger) is decreased in size are not permitted except for three exceptions. He stated that in this case the exception is when a boundary line adjustment is determined by the Commission that the parent tract is of sufficiently low quality to justify a boundary line adjustment exceeding the area limitations, according to the {Low Quality Land Characteristics}. He said that the Health Department has not reviewed the proposal to date as Staff was awaiting a revised plat. He stated the review request and plat was sent to the Health Department on January 29th. After discussion with Staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted to approve this request contingent upon final Health Department approval.

Yes: Bouffault (moved), Buckley, Daniel (seconded), Kreider, Kruhm, Lee, Malone, Nelson, Ohrstrom, Turkel

No: No one

Absent: Caldwell

Board/Committee Reports

Board of Supervisors (Mary Daniel)

Commissioner Daniel stated that the Board had their first meeting of the year on January 19th and committee appointments were assigned.

Board of Septic & Well Appeals (George L. Ohrstrom, II)

No report.

Board of Zoning Appeals (Anne Caldwell)

No report.

Historic Preservation Commission (Doug Kruhm)

Commissioner Kruhm stated that the HPC had their first meeting of the year on January 20th. He stated that Betsy Arnett was re-elected Chair and Page Carter was elected Vice Chair. He said that the next meeting is on March 16th.

Conservation Easement Authority (George L. Ohrstrom, II)

Chair Ohrstrom stated that the Authority had their first meeting of the year on January 21st. He said that Randy Buckley was re-elected Chair of the Authority and Peter Engel was re-elected as Vice Chair.

Other Business

Discussion, Telecommunications Subcommittee Work on Monopole Regulations

The purpose of this discussion item is to have the Telecommunications Subcommittee bring specific policy issues to the Commission in order to get feedback before they complete the work they have been doing the last several months. He gave the Commission a quick history of the project. He said the Subcommittee met back in the summer to address specific issues raised by Verizon Wireless

regarding our monopole regulations following our adoption of the Federal co-location text amendments early last year. He said that there are two issues that were brought to our attention, one being our regulations on co-locations. He said that Verizon pointed out that we did not have any specific regulations in our ordinance to deal with co-location on equipment on existing monopoles aside from what we recently adopted from the federal co-location requirement. He said the other concern is the height of our current monopole which is 100 feet. He said that they have reviewed two telecommunication studies used by Warren and Bedford Counties to aid in the siting of new towers. He said that from those studies they have gleaned a goals and objectives statement which they have modified to see if these goals and objectives are something we are looking for. Chair Ohrstrom suggested that we add an item to encourage co-location on existing towers when possible.

Mr. Stidham said another item that was gleaned from the Bedford County study was adopting different classes of Wireless Communication Facilities (WCF). He said that the WCF's shall be divided into the following classes. Class 1 – WCF's that are co-located on an existing WCF; Class 2 – WCF's with a height not to exceed fifty (50) feet above ground level; Class 3 – WCF's with a height not to exceed 150 feet; Class 4 – Existing WCF's that are nonconforming as to the requirements of this section or the requirements of Section 6-H-12; and Class 5 – Amateur radio antennas subject to the limitations of Code of Virginia Section 15.2-2293.1. He said that as we have been going through this text amendment for the last two meetings we have focused on the maximum height requirements for monopoles. He stated that there is not a set point for the height of a monopole until you get to the maximum height criteria with the FAA at 199 feet which requires that it to be lit. He said that at this point the Subcommittee felt this is where we could establish a maximum point that is based on tangible criteria. He said that they will be looking at these on a case by case basis and that they will need to justify that the height requirement of 199 feet is necessary.

Chair Ohrstrom asked if we would have the capability to make applicants justify the height of a monopole. He said the carriers will read the ordinance and think we allow 199 foot towers and that is what they will want to put up. Commissioner Daniel asked the Chair if we would want to make this the exception. Chair Ohrstrom stated that some kind of justification is necessary instead of leaving it open for carriers to assume that we allow 199 foot towers and that is what they want. Commissioner Bouffault said in the past we have put these towers under special use permit applications and one of the recommendations that the Subcommittee was making was for each and every case to have a telecommunications engineer to review the application at the applicant's cost. She said the second comment is if a carrier can get the coverage at 150 feet they are not going to spend more money to make the tower higher. She said even at the maximum height we will not get that many carriers coming in to put up a tower because we do not have the population. She added that she would like to see everyone in the County have the opportunity to get broadband access. Commissioner Turkel said that towers put up on the main highways (Route 7, Route 340 and Route 50) benefit many people in the community not just those people on Route 7 and Route 50.

Mr. Stidham said that there is going to be limited co-location opportunities and a very good possibility that if anyone decides to put up a tower it might be in close proximity to a previously approved monopole so we are filling in as many gaps as we can at the height that we set. He stated that the second issue is seeing if we can procure a telecommunications engineer to conduct a review of the County to help identify where the optimal locations for towers and the maximum heights we

want would be needed. He said that this could be the basis for when we look at these new tower applications through the special use permit process. He said that another question we have is if you want to go to the potential 199 foot tower maximum height how do you all feel about getting a telecommunications engineer study completed prior to considering the text amendment.

Ms. Bouffault said that she spoke with Supervisor McKay about this and he was a little concerned about going up to 199 feet. He said that the Feds now have an allowance of increasing tower height by 20 feet and she felt he would be more comfortable with 179 feet for the maximum tower height. Chair Ohrstrom asked Mr. Stidham if a tower is at the 199 foot maximum height, do the Federal regulations allow 10% overage on that unless there is a material change or substantial modification. Mr. Stidham stated that this is something the appropriate engineer could tell us. Chair Ohrstrom said it would be great if an engineer could give us information on all carriers. Commissioner Daniel stated that in Clarke County as well as other places the actual coverage can vary based on the carrier you have. Mr. Stidham said the key is to find an engineer to communicate that they understand what emerging technologies are.

Commissioner Bouffault that in the past consultants have been hired for different reasons and the results have not always been satisfactory. She definitely thinks the best thing to do is wait until an application for a special use permit is submitted for a tower and at that time and at their cost hire a consulting engineer. She thinks we are spending more money and wasting time with hiring a telecommunications engineer. Commissioner Turkel said that hiring a telecommunications engineer to do a study is actually just for us whereas hiring a consultant engineer at the time the application for a special use permit is submitted would be a more relevant study. Mr. Stidham stated our biggest concern is if we increase the tower height and an applicant submits an application for a special use permit for a tower and we require that the tower be shorter or deny the application out right, we need to have some rational basis to say that. Commissioner Kruhm said he would like for us to consider sending a message to the industry that we are serious about getting access for the citizens of Clarke County. Commissioner Kreider stated that we can ask them to put up whatever we want but if it does not make them money they are not going to do it.

Commissioner Bouffault said regarding the aesthetics of a tower she had some pictures which she handed out for the Commissioners to view. She said these pictures are electrical towers on Route 723 exiting Boyce. She said that they are ugly but the reason we have them is simple we need them for electricity. She said we tolerate these towers because we need them and this is the same approach we need to take for broadband. She stated that if we want to get broadband in Clarke County we will need to tolerate the towers. Mr. Stidham stated that one of the other things we proposed was to have a separate engineer to review every future application we get for a new tower similar to how we have Anderson & Associates review site plans for engineering review. He said that we would still need to give them something to review and to say yes or no on and that a locational study would be a crucial piece of that. Commissioner Turkel said that it seems like as soon as we leave the tree canopies we are running into aesthetic resistance. He asked if there are controls in the special use process to deny a tower based on aesthetics. Chair Ohrstrom asked if the committee is finished and Mr. Stidham said no but they wanted the input from the full Commission to help guide them as they finish up their work. Commissioner Bouffault asked if we are going with the 179 feet or 199 feet height limit. She asked if we are in favor of a preliminary study before we move forward with our final recommendations. Commissioner Turkel asked if we should wait until we receive the study and move

forward from there. Chair Ohrstrom said he did not think it would need to come back to the Planning Commission after the study is done. Commissioner Bouffault said the committee is going to have to come back with our final recommendations to the Planning Commission. Commissioner Kreider stated he is in favor of the height limit at 179 feet instead of going straight for the 199 foot as this would give us some break room for the future. Commissioner Bouffault said she is in favor of the 179 foot height limit. Commissioner Turkel asked if we should get Bob Mitchell's opinion on the 179 or 199 foot height limits and if it makes any difference in terms of the light issue. Chair Ohrstrom stated he thinks we should go ahead and put this question before him.

Frank Stearns (attorney for Verizon Wireless) was present and said he wanted to thank the Planning Commission for reviewing the ordinance. He stated that the current ordinance prohibits Verizon from even trying to find a location for a tower in Clarke County. He said that Verizon wants to be able to supply broadband coverage to the residents of Clarke County. He said that with the ordinance being relaxed it allows Verizon to go out and look for a location. He also mentioned to the Planning Commission that per the Federal Courts, aesthetics is a reason to deny a tower.

There being no further business to come before the Commission the meeting adjourned at 10:21 a.m.



George L. Ohrstrom, II, Chair



Brandon Stidham, Director of Planning

Minutes prepared by Debbie Bean, Recording Secretary